IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 292 OF 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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RAMESHBHAI VALABHAI PARMAR - Petitioner(s)

Versus

LIFE INSURANCE CORPORATION OF INDIA & ANR. - Respondent(s)

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Appearance :

Shri A.J. Desai for Petitioner(s).

Shri A.K. Clerk for Respondent No.1.

Shri Nilesh A. Pandya for Respondent No. 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 22/06/2007

ORAL JUDGMENT

The brief facts necessary for disposal of the Writ Application are that the petitioner was appointed as a Class-IV employee with effect

from 7th December, 1994 by the respondent-Corporation. The appointment was temporary and was made from time to time. The petitioner was sent to a doctor for his medical examination. The doctor issued a certificate against the interest of the petitioner; relying upon the said certificate, the respondent-Corporation removed the name of the petitioner from the panel of temporary employees.

2. It appears that the petitioner, along with his father and friend, went to the clinic of the said doctor and prayed for a certificate to the effect that he was suffering with such ailment and he was to be treated for such ailment. The doctor informed him that he had no complete records with him. Thereafter, the petitioner persuaded the doctor to examine him. On a thorough check up, it was found that the petitioner suffered with no ailments. The doctor issued yet another certificate which was produced before the Corporation. The Corporation issued a notice to the doctor to show cause as to why the two certificates were issued and how was the doctor to reconcile between the two certificates. The doctor in his reply to the Corporation stated that on the second examination, he found that the petitioner was suffering with no disease or ailment. He had expressed two possibilities, firstly that another man was produced before him who impersonated the petitioner or in the alternative, the petitioner might have taken some treatment, which had cured him of the disease. The Corporation did not accept the

second certificate, therefore, the petitioner is before this Court.

3. The learned Counsel for the petitioner submits that the Corporation was unjustified in not producing the petitioner before a panel of doctors for his examination. According to him, if the same doctor had issued two certificates and the petitioner was contending that he produced his own self for check up before the said doctor, then, either of the possibilities expressed by the doctor was not available.

4. The learned Counsel for the respondent-Corporation, however, on the other hand, submits that once the name of the petitioner was removed from the panel of temporary employees, the petitioner on the strength of the second certificate could not be included in the panel.

5. In the opinion of this Court, when two certificates running contrary to each other are issued by one and the same person and the said person is unable to give positive and specific reasons for the difference/distinction in the two certificates, then, each of the certificates would lose its value and in a case like the present, the petitioner should have been produced before the panel of doctors.

6. Taking into consideration the totality of the circumstances, I hereby direct the respondent to produce the petitioner before a panel of doctors for his thorough check up and health examination. If the panel of doctors certify that the petitioner is not suffering with any disease or ailment, then, the respondent-Corporation shall withdraw its earlier order and shall include the name of the petitioner in the list of

temporary employees and if the panel of doctors certify that the petitioner's health is not proper or he is suffering with certain ailments, which disqualify him for his inclusion in the list of temporary employees, then, that would be curtain over the rights of the petitioner.

7. The petition is allowed to the extent indicated above. The petitioner shall appear before the Manager of the concerned Branch of the respondent-Corporation on or before 23rd July, 2007 and shall also file a copy of this order, enabling the concerned Officer to know as to what he is required to do. Rule is made absolute. No costs.

[R.S.Garg, J.]

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